

SATURDAY, APRIL 19, 1873.

## The Homestead Law.

Article II. Section 32 of our State Constitution relates to the Homestead. Its last sentence reads as follows: "It shall be the duty of the General Assembly, at their first session, to enforce the provisions of this section by suitable legislation." At their first session, the special session of 1868, the General Assembly did pass "an act to terminate and perpetuate the homestead."

Section 4 of this act relates to the limitation of this homestead estate. The limitation is, of course, of major importance, than the details of appraisement, setting off &c., which are provided for in other sections of the act. As to the limitation, the words are as follows: "The estate, or right of homestead of the head of any family, existing at his death, shall continue for the benefit of his widow and minor children, and be held and enjoyed by them until the youngest child is twenty-one years of age, and until the marriage or death of the widow, and be limited to that period." Here we have the homestead estate limited to a life estate, with remainder over to the creditors of the head of the family. Now was this limitation according to the intent of the Constitution? "The family homestead"

\*\*\*\*\* shall be exempt from attachment, levy or sale on any mesne or final process issued from any court" are the words of the Constitution. Was the family homestead then exempted by the act of 1868? Was not the homestead actually or virtually levied upon under the judgment of the creditor, and a lien given to said creditor, with only the delay of the execution until the majority of the youngest child or the marriage or the death of the widow? Certainly this was the case. The judgment creditor already owned the homestead of his debtor, held his estate in expectancy, and frequently sold this his property in futuro.

This view seems to have been taken by the General Assembly. Not only "at their first session" but at every session the Legislature has touched upon this subject. In the Act of March 13, 1872 it is provided, "that the homestead, when assigned as herein prescribed shall vest in the hands of the family in fee simple, and be freed from all debts and liabilities whatever so long as he or she shall remain resident in this State and no longer." Here we have strong terms expressive of permanent exemption. But even here there is a condition, "so long as he or she shall remain resident &c., and no longer." If "he or she" left the State what then? Why back to the creditors the estate would revert. Instead of the Constitutional exemption, seeing this amount of property from all process of law by which the creditor could ever reach it, the debtor had only a fee conditional.

This act also has a provision by which the head of the family may sell his homestead upon condition that he buys another homestead in this State with the proceeds of its sale. This is based upon the kindred reason of the preceding condition. "The State has a right to protect herself from pauperism." *Salus populi suprema lex.*

But the very penalty for not purchasing another homestead in this State with the proceeds of the sale of the first, (which are to be deposited with the Sheriff,) shows that the creditor's right is allowed and that "process issued from a court" can reach the property which the Constitution says shall be "exempt from any process, &c."

The penalty is that "the Sheriff shall apply the money so deposited to the payment of the debt due from the depositor if any there be."

At the last session the General Assembly retouched the matter and made a step further towards making the exemption permanent and complete. The Act of Feb. 22, 1873, Section 2, says: "after the proceedings have become final, the title to the homestead to get off

and assigned, shall be forever discharged from all debts of said debtor then existing or thereafter contracted.

Section 4. says, "the homestead so exempted shall be subject to partition among all the children of the head of the family in like manner as if no debts existed."

Here we have an unconditional exemption and security of the homestead to the debtor "as if no debts existed."

This is what the Constitution intended.

This question as to limitation of the homestead estate and the quality and nature of the exemption is, as said, the most important one in the law. There are other questions as to who is the "head of a family" and what is the "homestead" &c., which have been settled by the Courts.

The above is a hurried and cursory tracing of the progress of the general assembly in hitting and carrying out the spirit of the Constitution in this all-important matter.

## The Massacre of Gen. Canby.

A great many people in South Carolina have read the announcement of the killing of Gen. Edward R. S. Canby with no feeling of regret. The reason for this is the personal or sectional antipathy for the victim. This however cannot affect the character or effect of the deed, whose announcement will send a thrill along the current communication of civilized life. A national re-reattends the event of the shocking death of Gen. Canby who was a distinguished officer of the United States army. And out of this regret comes the enquiry into the manner of his murder and the judgement of condemnation upon his murderers.

The policy of the United States government towards the barbarian Indians who remain untamed by the influence of civilization which has been gradually surrounding and embracing them, has been one of mistaken kindness. Harsh discipline and severe system was and is needed in the treatment of savages all unamenable to civilization, natural and eternal enemies to the white race and treacherous beyond all compare. Forced, bent and tamed into submission, the Indian should have been taught by severe lessons to respect the power of the government before it was essayed to make them grateful for its kindness.

Stripped of the drapery of romance in which the early lore of this continent has invested the red man, he is most loathsome savage. The autochthones of this rich soil, they have been and continue to be its canker-worm, gradually being extirpated but wonderful in the tenacity of its deadly virus. The romance of the Indian's fate may be an exhaustless theme for poetry and rhetoric, but for the practical purposes of government in the discharge of its duty of advancing and protecting the outposts and frontier of settlement and population, a business rule of wholesome discipline must be established and vigorously maintained.

Had this been the course of the government the Modoc war would not have occurred, nor had the brutal Jack murdered an army officer.

The punishment will probably be condign and terrible.

Gen. Sherman's army order, says something about extermination.

## The Metropolitan Press on the Murder of Canby.

The New York journals stand thus on the murder of Canby by the Modocs; The Tribune thinks that "this frightful catastrophe is natural and legitimate result of the conduct of the Government during the whole progress of this petty war." The World is quite severe upon "the caunting scoundrels who have inveigled Grant into treating a pack of outlaws as if they were Sunday school children." But the Sun talks of "wrong" on both sides and the Times doesn't want the peace policy abandoned. The Herald, like the Tribune and World holds that "at the present moment it is certain that we need a prompt and vigorous military policy rather than a peace policy, however humane and praiseworthy." It pitches furiously into the Government.

## MODOC MASSACRE.

## INDIAN TREACHERY.

CAPTAIN JACK KILLS GENERAL E. R. S. CANBY.

BRUTAL AND COWARDLY MURDER OF GEN. CANBY AND REV. DR. THOMAS.

[Special Telegram to Columbia Herald.]

SAN FRANCISCO, April 13.

The following are the latest particulars received from the Modoc country, giving the details of the interview between the peace commissioners and the Modoc Indians, resulting in the brutal and cowardly massacre of General Canby and Rev. Dr. Thomas. For several days previous to the fatal interview, the peace commissioners had been anxious for a talk with Captain Jack and the leading chiefs of the Modoc band. Prospects of peace seemed better, as the peace commissioners had received orders from Washington to give the Indians, if they thought it advisable, a reservation in the vicinity of the lava beds. On Thursday evening, Bogus Charley came into the camp at the lava beds with the information that Captain Jack, Schonchin and three or four others would meet the peace commissioners on a spot near the lava, about three quarters of a mile from camp. He remained in camp all night and was joined Friday morning by Boston Charley, who stated that Captain Jack was coming out to meet the commissioners. Between 10 and 11 o'clock Friday morning a party consisting of General Canby, A. B. Meacham, Dr. Thomas, Mr. Dyer, Riddle the interpreter, and squaw accompanied by the two Modocs, went out to meet the chief. They were met by Captain Jack, John Schonchin, Black Jim, Shack Nasty Jim, Ellin's Man and Hawker Jim. Each had a pistol at his belt but carried no gun. They sat in a kind of broken circle, Canby, Meacham and Thomas together faced by Captain Jack and Schonchin. Dyer stood by Jack, holding his horse, with Hawker Jim and Shack Nasty Jim to the left. Meacham made the first speech, giving a long history of what the commissioners wanted to do for the Indians, and was followed by Canby and Thomas, each in turn speaking for some time. Captain Jack appeared very serious, and talked for some time. When he finished speaking, he retired to the rear near where Meacham's horse was hitched. Schonchin then began a speech, and had hardly commenced when Dyer heard a cap miss fire and, looking round, saw Captain Jack to his left with a pistol pointed at General Canby. This was the signal for a general massacre, and a dozen shots were fired inside of half a minute. Dyer, after hearing the cap miss fire, turned and fled followed closely by Hawker Jim, who fired two shots at him. Dyer ran, still pursued by the Indians, but finding himself too closely pressed drew his derringer, whereupon Hawker Jim retreated. Dyer then returned to camp. Captain Jack fired at Canby, who ran off to the left, but was speedily shot down and killed instantly. Meacham was shot at by Schonchin and wounded in the head. He tried to draw his derringer, when two Indians ran up and knocked him down. Dr. Thomas was almost instantly killed receiving two pistol shots in the head. Ridley ran off. The Indians did not fire at him, but knocked his squaw down. Dyer, Riddle and squaw returned safely to camp. Intelligence of the massacre was first received in camp through the officer at the signal station, and two batteries under Colonel Miller and Major Tuckermorton, started for the scene, which was reached after 5 minutes march over the broken rocks. Three Indians were seen running round the edge of the lake on their way back to their rocky fastnesses. Meacham was found about a hundred yards west of the place of meeting badly wounded with a pistol shot over the eye. He was carried back to camp in a feeble condition. Dr. Thomas was found fifty yards further on. His dead body was lying face downward stripped to the waist. Canby's body lay about one hundred yards to the southward entirely nude, with two pistol shots in the head. From Colonel Gilen it is learned the Indians had also attacked Colonel Mason's camp on the east side of Tule lake, the attack being commenced by the

Indians firing on Lieutenants Boyle and Sherwood, who had wondered a few hundred yards outside of the picket lines. Sherwood was shot through the arm and leg, but Boyle escaped injury. Both got safely back to camp. The greatest excitement prevails among the troops in camp and the bitterest feeling is manifested toward the Indians.

## Romance of Crime.

The unhealthy romance of crime which has seemed for months to taint the very atmosphere, acts with most startling effect upon the susceptible natures of young men from fifteen years of age and upward and the infection seems largely on the increase in all the large cities of the nation. The career of Foster from the time of his committing the car-hoek murder through all the desperate chances and expedients of the subsequent two years until the last sad scene of all has proved the most fruitful of emulation. Two young men, one in New Hampshire and another in New York, moved by the morbidly fascinating accounts of the execution could not resist the temptation to test the sensations of the "drop," but in both instances the arrangements were so fearfully correct that the youthful experimentalists were left dangling in mid-air, the victims of unintentional suicide.—Evening Bulletin.

[From the Newberry (S. C.) Herald of March 12, 1873.]

NEWBERRY, S. C., March 3, 1873.

## MESSRS CULVER BROTHERS:

It is with pleasure that we commend your Farmer Cooking Stove to the general public. They are an absolute household necessity at this time, especially when so much of domestic duty and management depends more or less upon our wives and daughters. The Stove is as simple and beautiful a construction as it is rapid and reliable in its work. In a word, it is as near perfect as it can be. John P. Kinard, J. K. G. Nance, Isaac Herbert, A. Longshore, D. P. Hawkins, O. P. Harris, B. Weis, B. F. Griffin, M. Longshore, Mrs. A. Golding, J. P. Williams, J. M. H. Hunt, J. W. Gilliam, J. F. Oaker, M. Reider, M. C. Lonsberry, J. C. Stewart, W. L. Waters, W. M. Kinard, Jacob Kibler, G. W. Andrews, S. S. Pitts, L. Longshore, Wm. A. Fair, John McCarey, W. Doroch, J. H. Booser.

## A. C. HOLLINGSWORTH.

## STATE OF SOUTH CAROLINA,

## COUNTY OF NEWBERRY.

I certify that I am acquainted with John P. Kinard, J. C. S. Brown, and others, whose names are appended to the foregoing recommendation, that they are reputable citizens of Newberry county, and entirely worthy of credit.

Given under my hand and seal of office this March 3, 1873.

WARREN M. FEAGLE,

Deputy Clerk, Newberry County.

[From the Abbeville (S. C.) Press & Banner, Jan. 15, 1873.]

## ABBEVILLE, S. C., Dec. 10, 1872.

## MESSRS CULVER BROTHERS.

We cheerfully grant you permission to use our names as you see proper in commendation of your Farmer Cooking Stove, for we regard it as being altogether the best cooking stove in use. It is all that is desirable in a stove, it is simple in construction, has no dampers or doors to burn out, and bakes quick and beautifully. We bespeak for you a liberal patronage from our neighbors and friends, believing as we do that none who purchase one of these stoves will ever regret it, but will consider it a rare prize in these days, when good cooks are so hard to get. Your enterprise merits success, and we hope you will attain it.

J. W. Jordan, John Jones, J. D. Neal, B. P. Noel, S. Talbert, W. McCall, James Barnes, J. U. Britt, P. Tucker, John Hagan, W. Watkins, J. B. Pruitt, J. E. Bell, Henry Bowie, A. Hall, W. B. Bowie, J. Vance, T. V. Pruitt, J. P. Hannah, M. G. Rivers, C. Jones, G. W. Nichols, S. B. Cook, J. C. Hall, S. O. Young, J. Jordan, W. Freeman, W. Wickliffe, J. Criswell, V. Sharp, J. M. Pruitt, A. J. Weed, W. A. Hall, A. J. Chickales, T. O. Hill, Burt Riley, Jas. Thompson, G. W. Bowen, Wm. Cook, J. D. Alewine, A. Ever, J. T. Cheatham, B. Taylor, H. Riley, H. M. Prince, M. L. Ashley, W. Foonhee, S. W. Brooks, H. B. Davenport, J. S. Shriver, Wm. Hagan, J. J. Acker, J. J. Jordan, J. C. Foonhee, W. C. Cromer, G. P. Oneal, J. D. Adams, W. F. Anderson, W. M. Webb, J. D. Foonhee, T. R. Pickett, W. Whitely, R. V. Acker, B. E. Eyring, P. A. Tribble.

## STATE OF SOUTH CAROLINA,

## ABBEVILLE COUNTY, January 14, 1873.

I, L. D. Bowie, Clerk of the Court of Common Pleas and General Sessions, for county and State aforesaid, do hereby certify that I am personally acquainted with the above signers, and take pleasure in saying that they are several honorable gentlemen, and are men of credit and undoubted veracity. I will add that Messrs Culver Brothers have sold several hundred of their Farmer Cooking Stoves in this county, and so far as I have heard, they give universal satisfaction.

L. D. BOWIE.

April 19 4t

## IN THE COURT OF PROBATE.

WHEREAS, Newton E. W. Sistrunk made suit to me to grant to him Letters of Administration of the Estate and effects of Mrs. Ann Sistrunk, late of Orangeburg County, deceased.

These are therefore to cite and admonish all and singular the Kindred and Creditors of the said deceased, to be and appear before me at a Court of Probate for the said County, to be holden at Orangeburg on the 5th day of May, 1873, at 10 o'clock A. M. to show cause if any, why the said Administration should not be granted.

Given under my hand and the Seal of my Court, this 18th day of April, A. D. 1873, and in the ninety-seventh year of American Independence.

AUG. B. KNOWLTON,

Judge of Probate O. C.

## MRS. C. S. MAULE,

## RUSSKILL STREET,

Takes pleasure in announcing to her Customers and the Public in general that she has opened her SPRING STOCK consisting of the LATEST STYLES of MILLINERY GOODS.

Thankful for past favors, she respectfully solicits a continuance of the same. A SPECIALTY—Dress Making, Cutting and Fitting Carried on as usual by Mrs. I. S. CUMMINGS.

Country Orders respectfully solicited and will meet with prompt attention.

April 19 1m

## Sale Under Mortgage.

By virtue of a Mortgage from J. M. Pennington to Bull, Scovill & Pike, dated March 26, 1872, and with the consent of parties, I will sell at Orangeburg Court House, on Tuesday, the 6th day of May next for cash, two Mules and one Four Horse Wagon.

April 19—td W. M. JOINER, Agent.

## Notice of Dismissal.

NOTICE IS HEREBY GIVEN THAT one Month from date I will file my final account with the Honorable Aug. B. Knowlton, Judge of Probate for Orangeburg County, as Guardian of Joseph M. and Daniel J. Griffin, and ask for Letters of Dismissal.

JOHN F. GRIFFIN, Guardian.

April 16th, 1873.

April 19 1m

## Sheriff's Sales.

By virtue of Sundry Executions to me directed, I will sell to the highest bidder, at Orangeburg C. H., on the FIRST MONDAY in May next, FOR CASH, all the Right, Title and Interest of the Defendant in the following Property, viz:

1. One tract of land containing 400 acres more or less, in Orangeburg County, bounded on the Northeast by Columbia Road, East by lands formerly of H. C. Wannamaker, South and West by T. K. Saspartas.

2. One tract in said County containing 300 acres more or less, bounded on the North and West by land of O. Farnum, East by the tract above described, and West by land of T. K. Saspartas. Levied on the property of Gesper Linabiet at the suit of Jacob Amaker.

## ALSO

All that tract or parcel of land in said County, containing 124 acres, with Dwelling House and other improvements, being tract whereon J. Hamilton Felder now resides, bounded on the South by the Orangeburg Road, and on all other sides by lands of J. Hamilton Felder. Levied on as the property of J. Hamilton Felder at the suit of Thomas W. Mellichamp.

## ALSO

One Buggy. Levied on as the property of Joel B. Whetsell at the suit of John F. and Laura S. J. Jackson.

## ALSO

At Lewisville, (beginning at 11 o'clock on Monday and continuing from day to day until the whole stock is disposed of,) all the Stock of Goods in Store, of Winfield Clark, consisting of Dry Goods, Groceries, Shoes, Hats, Crockery, Tin Ware, &c. Levied on the property of Winfield Clark at the suits of Peake, Oyedye & Co. and others.

## ALSO

On Tuesday at the residence of the Defendant 30 bushels Corn. Levied on as the property of Calvin Guignard at the suit of Wade and Nancy Gadsden.

Sheriff's Office.

Orangeburg C. H. S. C.

April 18th, 1871.

April 19 1d

## NOTICE TO CREDITORS.

ALL persons having demands against the Estate of B. G. Hunt, deceased, and all persons indebted to said Estate will present the same and make payment to the undersigned within three months from this date.

JOHN P. SPICER, Qualified Administrator.

February 11th, 1873. 15 td

## Orangeburg—in Probate Court.

D. I. Twigg, vs. P. M. Houser, Adm'r. John A. Keitt.

All persons having claims against the Estate of the late John A. Keitt as requested to present and prove their respective demands before this Court on or before the twenty-ninth day of April, 1873, to which date the further hearing of the above entitled action is continued.

A. B. KNOWLTON, Probate Judge.

April 5 8t

## NOTICE.

## Delinquent Land Sales,

## ORANGEBURG COUNTY.

## Amelia Township.

J. E. L. Amaker, 1647.

P. A. Fertick, 26.

Daniel Fritz, 59.

Sam'l Footman, 72.

Estate L. E. R. Myers, 181.

W. N. M. R. 289.

Estate Paul Spigner, 95.

Davie F. Zeigler, 1200 acres.

Branchville Township.

R. A. Williams, Town Lot, 1870 '71 '72.

Est. of J. D. Metz, or E. Crook, 80 acres, 8 Buildings, 1870 '71 '72.

Est. of John McKelany, 300 acres, 5 Buildings, 1870 '71 '72.

Martin Thomas, Town Lot, 1871.

R. G. M. Berry, 800.

C. J. Felder, 70.

Cow Castle Township.

Angus McLean, 165 acres.

C. J. Felder, Guardian 125.

Mary A. Inabett, 860.

W. F. Patrick, Agent Estate of A. S. Rush, 100.

Smart Summers, 18.

W. D. Stabler, Agent for J. E. Stabler 135.

Daniel Stobin, 147.

Sarah Toland, 75.

Mary C. Ulmer, 450.

T. P. Wannamaker, 250.

Cow Castle Township.

Thomas Pulaski, 270.

Elizabeth Township.

Robt Govan, 516.

G. A. Purick, 200.

W. B. Livingston, 394.

F. Livingston, Guardian, 500.

F. Livingston, Agent, 149.

Martin Livingston, 149.

Estate Sam'l Pearson, 80.

Mrs. Ann Simons, 180.

Gooding's Township.

J. A. Arant, 50.

J. C. Arant, 50.

Mary M. Dantzer, 100, R. J. Kennerly, 96.

T. E. Rickenbaker, 36.

Goldland Township.

John R. Ash, 332.

Margaret E. Argot, 200, R.

John W. Davis, Agent for Minors, 555.

J. H. Morgan, 37, R.

O. L. Phillips, 189.

Jas W Young, 56, R.

Hebron Township.

Morgan Garick, 230.

Liberty Township.

Nere Bloom, 91, R.

Jerome McMichael, 1686.

Alonzo Milhous, 453.

David Sharpes, 279.

John C. Whetstone, 737.

Lyon's Township.

A. H. Hunkerpiller, 69, "

J. W. Hunkerpiller, 60.

Rachel Haigler, 200.

Middle Township.

E. R. Dantzer, 100.

J. L. Dantzer, 100.

Allen P. Dantzer, 62, R.

J. B. Hunter, 104.

Estate D. R. Hunkerpiller, 164, R.

J. W. Stroman, Agent for Dantzer, 116.

T. W. Stroman, Agent for Est. A. Stroman, 900.

S. B. Smith, Agent, 400.

New Hope Township.

D. N. Staly, 130, R.

Orange Township.

Berj Byas, 586.

Anthony Goodson, 4, R.

Jas P. May, one town lot.

Haine More, 196.

Mrs — Melton, 7.

Pharah Robinson, one town lot.